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TIGA Entertainment Company, Ltd.

8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
10 WESTERN DIVISION
11

12 UM CORPORATION, a Japanese
13 corporation,

14 Plaintiff,

15 vs.

16 TSUBURAYA PRODUCTIONS CO.
17 LTD., a Japanese corporation,

18 Defendant.
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21 AND RELATED CROSS-CLAIMS
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Case No. 2:15-cv-03764-AB(AJWx)

CROSSDEFENDANT TIGA
ENTERTAINMENT COMPANY,
LTD.'S ANSWER AND
AFFIRMATIVE DEFENSES TO
TSUBURAYA PRODUCTIONS, CO.,
LTD.'S CROSS-CLAIMS FOR:

(1) COPYRIGHT INFRINGEMENT
(2) DECLARATORY RELIEF

Judge: Hon. Andrew Birotte, Jr.

Trial Date: April 18, 2017

1 Crossdefendant TIGA Entertainment Company, Ltd. (“TIGA”), by and
2 through its undersigned counsel, hereby answers the crossclaims of Defendant
3 and Counterclaimant Tsuburaya Productions Co., Ltd. (“TPC”). TIGA denies
4 all factual allegations set forth in the crossclaims unless expressly admitted.
5 Any admission herein is limited to the express language of the response and
6 shall not be deemed an implied admission of additional facts. To the extent
7 paragraphs in the crossclaims are grouped under headings, these headings
8 contain legal conclusions to which no response is required, and which have
9 not been reproduced herein; TIGA denies each and every allegation made or
10 implied by such headings.

11 **NATURE OF THE ACTION**

- 12 1. TIGA denies the allegations of paragraph 1.
- 13 2. TIGA lacks knowledge or information sufficient to form a belief
14 as to the truth or accuracy of the allegations in paragraph 2 and on this basis
15 denies them.
- 16 3. TIGA admits that it has licenses to exploit certain Ultraman
17 motion pictures in countries outside of Japan. TIGA lacks knowledge or
18 information sufficient to form a belief as to the truth or accuracy of the
19 remaining allegations in paragraph 3 and on this basis denies them.
- 20 4. TIGA denies that it is infringing on TPC’s copyrights in the
21 United States. TIGA lacks knowledge or information sufficient to form a
22 belief as to the truth or accuracy of remaining the allegations in paragraph 4
23 and on this basis denies them.

24 **THE PARTIES**

- 25 5. TIGA lacks knowledge or information sufficient to form a belief
26 as to the truth or accuracy of the allegations in paragraph 5 and on this basis
27 denies them.
- 28 6. TIGA admits the allegations of paragraph 6.

1 7. TIGA lacks knowledge or information sufficient to form a belief
2 as to the truth or accuracy of the allegations in paragraph 7 and on this basis
3 denies them.

4 8. TIGA lacks knowledge or information sufficient to form a belief
5 as to the truth or accuracy of the allegations in paragraph 8 and on this basis
6 denies them.

7 9. TIGA admits that it is a corporation organized under the laws of
8 Hong Kong. TIGA denies the remaining allegations of paragraph 9.

9 10. TIGA lacks knowledge or information sufficient to form a belief
10 as to the truth or accuracy of the allegations in paragraph 10 and on this basis
11 denies them.

12 11. TIGA denies that it is responsible for any “alleged wrongful
13 conduct” and also denies that it “acted in concert and participation with, as
14 agent of or representative for, at the request of, or on behalf of” UM
15 Corporation, Ultraman USA, Sompote Saengduenchai and/or Golden Media
16 Group. The remaining allegations of Paragraph 11 do not require a response;
17 to the extent the remaining allegations of paragraph 11 require a response,
18 TIGA denies them.

19 12. TIGA denies the allegations of paragraph 12.

20 **JURISDICTION AND VENUE**

21 13. TIGA admits that this Court has subject matter jurisdiction over
22 the Copyright Act claims in this Action pursuant to 28 U.S.C. §§ 1331 and
23 1338. TIGA denies the truth of the remaining allegations set forth in
24 paragraph 13.

25 14. TIGA admits that it has entered into licenses with Golden Media
26 Group for the exploitation of certain Ultraman motion pictures in the United
27 States. TIGA denies that it has done so “to infringe TPC’s intellectual
28 property rights, with actual knowledge that such conduct has caused or is

1 substantially likely to cause injury to Tsuburaya in this district.” TIGA lacks
2 knowledge or information sufficient to form a belief as to the truth or accuracy
3 of the remaining allegations in paragraph 14 and on this basis denies them.

4 15. TIGA lacks knowledge or information sufficient to form a belief
5 as to the truth or accuracy of the allegations in paragraph 15 and on this basis
6 denies them.

7 **FACTUAL ALLEGATIONS**

8 **Tsuburaya and the Ultraman Library**

9 16. TIGA lacks knowledge or information sufficient to form a belief
10 as to the truth or accuracy of the allegations in paragraph 16 and on this basis
11 denies them.

12 17. TIGA lacks knowledge or information sufficient to form a belief
13 as to the truth or accuracy of the other allegations in paragraph 17 and on this
14 basis denies them.

15 18. TIGA lacks knowledge or information sufficient to form a belief
16 as to the truth or accuracy of the other allegations in paragraph 18 and on this
17 basis denies them.

18 19. TIGA lacks knowledge or information sufficient to form a belief
19 as to the truth or accuracy of the remaining allegations in paragraph 19 and on
20 this basis denies them.

21 20. TIGA lacks knowledge or information sufficient to form a belief
22 as to the truth or accuracy of the remaining allegations in paragraph 20 and on
23 this basis denies them.

24 21. TIGA lacks knowledge or information sufficient to form a belief
25 as to the truth or accuracy of the remaining allegations in paragraph 21 and on
26 this basis denies them.

27 22. TIGA lacks knowledge or information sufficient to form a belief
28 as to the accuracy or authenticity of the image depicted in paragraph 22.

1 TIGA lacks knowledge or information sufficient to form a belief as to the truth
2 or accuracy of the remaining allegations in paragraph 22 and on this basis
3 denies them.

4 23. TIGA lacks knowledge or information sufficient to form a belief
5 as to the accuracy or authenticity of the image depicted in paragraph 23.

6 TIGA lacks knowledge or information sufficient to form a belief as to the truth
7 or accuracy of the remaining allegations in paragraph 23 and on this basis
8 denies them.

9 24. TIGA lacks knowledge or information sufficient to form a belief
10 as to the truth or accuracy of the allegations in paragraph 24 and on this basis
11 denies them.

12 25. TIGA lacks knowledge or information sufficient to form a belief
13 as to the accuracy or authenticity of the image depicted in paragraph 25.

14 TIGA lacks knowledge or information sufficient to form a belief as to the truth
15 or accuracy of the remaining allegations in paragraph 25 and on this basis
16 denies them.

17 26. TIGA lacks knowledge or information sufficient to form a belief
18 as to the accuracy or authenticity of the image depicted in paragraph 26.

19 TIGA lacks knowledge or information sufficient to form a belief as to the truth
20 or accuracy of the remaining allegations in paragraph 26 and on this basis
21 denies them.

22 27. TIGA lacks knowledge or information sufficient to form a belief
23 as to the truth or accuracy of the allegations in paragraph 27 and on this basis
24 denies them.

25 28. TIGA lacks knowledge or information sufficient to form a belief
26 as to the truth or accuracy of the allegations in paragraph 28 and on this basis
27 denies them.

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1 29. As for TPC's United States copyright registrations, TIGA refers
2 to the registrations themselves as the proper source for determining the
3 contents of such documents. TIGA lacks knowledge or information sufficient
4 to form a belief as to the truth or accuracy of the remaining allegations in
5 paragraph 29 and on this basis denies them.

6 **Counterdefendants' Infringement of the Ultraman Works**

7 30. TIGA lacks knowledge or information sufficient to form a belief
8 as to the truth or accuracy of the allegations in paragraph 30 and on this basis
9 denies them.

10 31. TIGA lacks knowledge or information sufficient to form a belief
11 as to the truth or accuracy of the allegations in paragraph 31 and on this basis
12 denies them.

13 32. TIGA lacks knowledge or information sufficient to form a belief
14 as to the truth or accuracy of the allegations in paragraph 32 and on this basis
15 denies them.

16 33. TIGA is generally aware of the legal proceedings in Thailand
17 between TPC and Sompote Saengduenchai. TIGA otherwise lacks knowledge
18 or information sufficient to form a belief as to the truth or accuracy of the
19 allegations in paragraph 33 and on this basis denies them.

20 34. TIGA is generally aware of the legal proceedings in Thailand
21 between TPC and Sompote Saengduenchai. TIGA otherwise lacks knowledge
22 or information sufficient to form a belief as to the truth or accuracy of the
23 allegations in paragraph 34 and on this basis denies them.

24 35. TIGA lacks knowledge or information sufficient to form a belief
25 as to the truth or accuracy of the allegations in paragraph 35 and on this basis
26 denies them.

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1 36. TIGA lacks knowledge or information sufficient to form a belief
2 as to the truth or accuracy of the allegations in paragraph 36 and on this basis
3 denies them.

4 37. TIGA lacks knowledge or information sufficient to form a belief
5 as to the truth or accuracy of the allegations in paragraph 37 and on this basis
6 denies them.

7 38. TIGA lacks knowledge or information sufficient to form a belief
8 as to the truth or accuracy of the allegations in paragraph 38 and on this basis
9 denies them.

10 39. The allegations of paragraph 39 are legal conclusions and
11 therefore no response is due. To the extent a response to the allegations is
12 required, TIGA denies them.

13 40. TIGA lacks knowledge or information sufficient to form a belief
14 as to the truth or accuracy of the allegations in paragraph 40 and on this basis
15 denies them.

16 41. TIGA lacks knowledge or information sufficient to form a belief
17 as to the truth or accuracy of the allegations in paragraph 41 and on this basis
18 denies them.

19 42. TIGA lacks knowledge or information sufficient to form a belief
20 as to the truth or accuracy of the allegations in paragraph 42 and on this basis
21 denies them.

22 43. The allegations of paragraph 43 are legal conclusions and
23 therefore no response is due. To the extent a response is required, TIGA lacks
24 knowledge or information sufficient to form a belief as to the truth or accuracy
25 of the remaining allegations in paragraph 43 and on this basis denies them.

26 44. The allegations of paragraph 44 are legal conclusions and
27 therefore no response is due. To the extent any response is due, TIGA admits
28 that has licenses to distribute certain Ultraman Works outside of Japan. To the

1 extent any further response is required, TIGA lacks knowledge or information
2 sufficient to form a belief as to the truth or accuracy of the remaining
3 allegations in paragraph 44 and on this basis denies them.

4 45. TIGA specifically denies that it is infringing on TPC's rights.
5 TIGA lacks knowledge or information sufficient to form a belief as to the truth
6 or accuracy of the remaining allegations in paragraph 45 and on this basis
7 denies them.

8 **FIRST CROSSCLAIM FOR RELIEF**

9 (Copyright Infringement against all Counterdefendants)

10 (17 U.S.C. §§ 106 *et seq.* and 501)

11 46. Paragraph 46 does not contain any allegations of fact to which an
12 answer is required. TIGA denies that TPC is entitled to any relief against
13 TIGA under 17 U.S.C. §§ 106 *et seq.* and 501.

14 47. Answering the allegations of paragraph 47, TIGA admits that the
15 works listed in the 1976 Agreement constitute copyrightable subject matter
16 under the Copyright Act, 17 U.S.C. § 101 *et seq.* TIGA specifically denies
17 that TPC has any rights in any of the works listed in the 1976 Agreement in
18 the United States. TIGA otherwise lacks knowledge or information sufficient
19 to form a belief as to the truth or accuracy of the remaining allegations in
20 paragraph 47 and on this basis denies them.

21 48. TIGA denies the allegations in paragraph 48.

22 49. TIGA denies the allegations in paragraph 49.

23 50. TIGA denies the allegations in paragraph 50.

24 **SECOND CROSSCLAIM FOR RELIEF**

25 (Declaratory Relief against all Counterdefendants)

26 51. Paragraph 51 of the crossclaims does not contain any allegations
27 of fact to which an answer is required. TIGA denies that TPC is entitled to
28 any relief against TIGA.

1 52. TIGA admits the allegations of paragraph 52.

2 53. TIGA lacks knowledge or information sufficient to form a belief
3 as to the truth or accuracy of the remaining allegations in paragraph 53 and on
4 this basis denies them.

5 54. Paragraph 54 does not contain any allegations of fact to which an
6 answer is required. TIGA denies that TPC is entitled to any relief against
7 TIGA.

8 **PRAYER FOR RELIEF**

9 TIGA denies that TPC is entitled to any judgment in its favor and/or any
10 of the relief requested in TPC's Prayer for Relief.

11 **AFFIRMATIVE DEFENSES**

12 Pursuant to Rule 8(c) of the Federal Rules of Civil Procedure, TIGA
13 further pleads the following separate and additional defenses. By pleading
14 these defenses, TIGA does not in any way agree or concede that it has the
15 burden of proof or persuasion on any of these issues. TIGA reserves the right
16 to assert such additional affirmative defenses as discovery indicates are proper.
17 For its affirmative defenses, TIGA alleges on information and belief that:

18 **FIRST AFFIRMATIVE DEFENSE**

19 TPC has no valid, enforceable or protectable rights or interest in some
20 or all of the alleged copyrights or other matters asserted.

21 **SECOND AFFIRMATIVE DEFENSE**

22 TPC's crossclaims are barred in whole or in part by TPC's unclean
23 hands.

24 **THIRD AFFIRMATIVE DEFENSE**

25 TPC has not been damaged in any amount or manner because of any act
26 alleged against TIGA in the crossclaims, and, therefore, the relief prayed for in
27 the Crossclaims cannot be granted.

28

1 **FOURTH AFFIRMATIVE DEFENSE**

2 TPC's crossclaims are barred on the grounds of legal justification or
3 excuse.

4 **FIFTH AFFIRMATIVE DEFENSE**

5 TPC's crossclaims are barred in whole or in part by the applicable
6 statutes of limitations.

7 **SIXTH AFFIRMATIVE DEFENSE**

8 TPC's crossclaims are barred in whole or in part by the doctrine of
9 laches.

10 **SEVENTH AFFIRMATIVE DEFENSE**

11 TPC's crossclaims are barred in whole or in part by the doctrines of
12 waiver, estoppel, acquiescence or abandonment.

13 **EIGHTH AFFIRMATIVE DEFENSE**

14 TPC's crossclaims are barred in whole or in part by the doctrines of
15 collateral estoppel, adjudicatory comity, and/or *res judicata*.

16 **NINTHAFFIRMATIVE DEFENSE**

17 To the extent TPC's crossclaims seek reliefs for alleged extraterritorial
18 acts that occurred outside of the United States, TPC's crossclaims are barred
19 due to lack of subject matter jurisdiction.

20 **TENTTH AFFIRMATIVE DEFENSE**

21 TPC's crossclaims are barred in whole or in part by the doctrine of
22 illegality and the fact that TPC's actions violate applicable law.

23 **ELEVENTH AFFIRMATIVE DEFENSE**

24 TPC's crossclaims are barred in whole or in part because the alleged
25 infringement was in good faith with non-willful intent, at all times.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, TIGA respectfully requests that this Court:
28

- 1 1. Dismiss with prejudice the crossclaims and the claims for relief
- 2 contained therein;
- 3 2. Determine and declare that TIGA is not liable for copyright
- 4 infringement;
- 5 3. Award TIGA its reasonable attorneys' fees incurred in this action;
- 6 4. Award TIGA costs incurred in this action; and
- 7 5. Grant such other and further relief as the Court deems just proper.
- 8

9 Dated: February 25, 2016

10 PILLSBURY WINTHROP SHAW
11 PITTMAN LLP
12 RICHARD H. ZAITLEN
13 JENNIFER A. SEIGLE
14 LAURA A. LEVINE

15 By: /s/ Richard H. Zaitlen
16 Richard H. Zaitlen
17 Attorneys for Crossdefendant TIGA
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